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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA**

THE DOWNTOWN SOUP KITCHEN
d/b/a DOWNTOWN HOPE CENTER,

Plaintiff,

v.

MUNICIPALITY OF ANCHORAGE,
ANCHORAGE EQUAL RIGHTS
COMMISSION, and MITZI BOLAÑOS
ANDERSON, in her Official Capacity as
the Executive Director of the Anchorage
Equal Rights Commission,

Defendants.

Case No. 3:21-cv-00155-SLG

**JOINT SCHEDULING AND
PLANNING CONFERENCE
REPORT**

I. Meeting.

In accordance with Rules 16(a) and 26(f), Federal Rules of Civil Procedure, and with Local Civil Rules 16.1 and 26.1(b), the parties conferred on ***February 4, 2022***, at which the following persons participated: ***Ryan J. Tucker, on behalf of Plaintiff; and Ruth Botstein, on behalf of Defendants.*** As a result of that conferral, the parties recommend the following:

II. Discovery Plan.

A. Timing, Form and Disclosure Requirements. Please refer to

Rule 26(f)(3)(A), Federal Rules of Civil Procedure. Are there changes that the parties are proposing to that rule for this case under Rule 26(a)?

Yes No X ***[If yes, list proposed changes:]***

B. Initial Disclosures / Preliminary Witness Lists.

1. The information required by Rule 26(a)(1), Federal Rules of Civil Procedure:

(a) Has been exchanged by the parties.

(b) X Will be exchanged by the parties on or before:

March 9, 2022

2. Preliminary witness lists:

(a) Have been exchanged by the parties.

(b) X Will be exchanged by the parties on or before

March 11, 2022

3. Disclosure Statement. The disclosure requirements of Rule 7.1, Federal Rules of Civil Procedure:

- (a) Have been complied with by Plaintiff.
- (b) Compliance will be accomplished on or before [date].
- (c) Rule 7.1 is not applicable as to Defendants.

C. Subjects and Timing of Discovery. See Rule 26(f)(3)(B), Federal Rules of Civil Procedure.

1. List the subjects on which discovery may be needed: ***The claims and defenses contained in the parties' pleadings.***
2. Should discovery be conducted in phases or limited to or focused on particular issues? Yes No

[If yes, please describe the proposed phases or limitations:]

3. Absent good cause, the proposed date for completion of all discovery should be no later than **twelve months** from the date of this report. ***[If one or both parties contend that good cause exists for additional time for discovery, please explain:]***

4. **Final Discovery Witness List.** A final discovery witness list disclosing all lay witnesses whom a party may wish to

call at trial shall be served and filed on **September 23, 2022**.¹

5. **Close of Fact Discovery.** Fact discovery will be completed on or before **October 28, 2022**. *[See paragraph C.3 above].*
6. **Expert Discovery.** See Rule 26(a)(2), Federal Rules of Civil Procedure.
 - a. Expert witnesses shall be identified by each party on or before **August 26, 2022**, and each party may identify responsive supplemental expert witnesses within 14 days thereafter.
 - b. Expert disclosures (reports) required by Rule 26(a)(2) will be disclosed:
 - (i) By all parties on or before **September 23, 2022**; or
By plaintiff(s) on or before *[date]*, and by defendant(s) on or before *[date]*;
 - (ii) Rebuttal reports on or before 30 days from the service of the report being rebutted.

¹ Each party shall make a good faith attempt to list only those lay witnesses that the party reasonably believes will testify at trial.

c. Expert witness discovery (include depositions) shall be completed by: *November 30, 2022. [See paragraph C.3 above].*

D. Preserving Discovery and Electronically Stored Information (ESI)

1. Are there issues about the disclosure, discovery, or preservation of ESI, including the form or format in which it should be produced?

See Rule 26(f)(3)(C), Federal Rules of Civil Procedure.

Yes No X *[If yes, please identify the issue(s):]*

2. Please state how ESI should be produced: *Discovery from electronic or computer-based media will be requested and produced as reasonably available to the parties in the ordinary course of business. If any issues regarding production of such data arise, the parties agree to confer in a good faith effort to resolve any dispute before presenting it to the Court.*

3. Are there issues with preserving non-ESI discovery?

Yes No X *[If yes, please identify the issue(s):]*

E. Claims of Privilege or Protection of Attorney Work

Product *See Rule 26(f)(3)(D), Federal Rules of Civil Procedure.*

1. There is no indication that this will be an issue.
2. The parties have entered into a confidentiality agreement.

3. X The parties will file their proposed confidentiality agreement on or before: ***March 25, 2022***.

F. Limitations on Discovery. *See Rule 26(f)(3)(E), Federal Rules of Civil Procedure.*

1. X The limitations contained in Rules 26(b), 30, and 33, Federal Rules of Civil Procedure, and in Local Civil Rules 30.1 and 36.1, will apply except as indicated below.
2. The maximum number of depositions by each party will not exceed ***[number]***.
 - (a) Depositions will not exceed ***[number]*** hours as to any deponent.
 - (b) Depositions will not exceed ***[number]*** hours as to non-party deponents.
 - (c) Depositions will not exceed ***[number]*** hours as to party deponents.
3. The maximum number of interrogatories posed by each party will not exceed ***[number]***.
4. The maximum number of requests for admissions posed by each party will not exceed ***[number]***.
5. Other limitations: ***[insert other limitations]***.

G. Supplementation of Disclosures and Discovery Responses.

Please refer to Rule 26(e)(1) and (e)(2), Federal Rules of Civil Procedure.

Do the parties request that the Court enter an order that is different from these rules (e.g. supplementation at 30 day intervals)?

Yes No X *[If yes, explain:]*

III. Pretrial Motions.

A. Are there preliminary motions as to jurisdiction, venue, arbitration, and/or statutes of limitation that should be filed within 60 days?

Yes No X *[If yes, explain:]*

B. Motions must be served and filed within the times specified in applicable rules. Complete the following only if the parties are proposing deadline(s) that are different from the applicable rules:

1. Motions to amend pleadings or add parties will be filed not later than ***March 25, 2022***. Thereafter, a party must seek leave of the Court to modify this deadline. *See Rule 16(b)(3)(A) and (4), Federal Rules of Civil Procedure.*

2. Motions under the discovery rules will be filed not later than ***December 9, 2022***.

3. Dispositive motions (including motions for summary judgment) will be filed not later than ***January 13, 2023***.

4. Motions to exclude expert testimony shall be filed and served not later than ***January 13, 2023***.

IV. Trial.

A. The case is expected to take 12 days to try.

B. Has a jury trial been demanded? Yes No X

C. Is the right to jury trial disputed? Yes No X

D. The parties do / X do not request the scheduling of a trial date at this time.²

1. If a trial date is requested at this time, the parties' report shall include a minimum of three alternative dates for the start of the trial, at least two of which are 5 to 7 months from the close of all discovery.
2. If a trial date is not established at this time, the court will call upon the parties to certify that the case is ready for trial as provided in Local Civil Rule 40.1(b).

V. Other Provisions.

A. **Court Conference.** The parties do / X do not request a conference with the court before entry of a scheduling order.

[If requested, explain:]

² The decision of whether to establish a trial date at this stage of the proceedings rests with the discretion of the assigned judge. Counsel and self-represented parties are advised to contact the assigned judge's Data Quality Analyst (DQA) to determine the judge's practice for establishing a trial date.

B. Consent to Proceed before a Magistrate Judge.

The parties do / X do not consent to trial before a magistrate judge.

C. Early Settlement / Alternative Dispute Resolution.

1. Do the parties request immediate assistance by way of a settlement conference or alternative dispute resolution?

Yes No X *[If yes, explain:]*

2. Do the parties wish to consider private mediation or a settlement conference with a judicial officer of this court at a later date?

Yes No X

D. Related Cases. Are the parties aware of any related cases as defined by Local Civil Rule 16.1(e)? Yes X No *[If yes, describe:]*

Case No. 3:18-cv-00190-SLG previously before this Court and terminated as of October 2, 2019.]

VI. Report Form.

A. Have the parties experienced a problem in using this form?

Yes No X *[If yes, explain:]*

B. Are there additional subjects that the parties would propose to add to this form?

Yes No X *[If yes, explain:]*

Date: February 4, 2022.

By: /s/ Ryan J. Tucker

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By: /s/ Ryan J. Tucker for Ruth Botstein

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Attorneys for Defendants

CERTIFICATE OF SERVICE

I hereby certify that on February 4, 2022, the foregoing was filed with the Clerk of Court using the CM/ECF system, which will send notification of such filing to the following counsel of record:

Ruth Botstein
Meagan Carmichael
Assistant Municipal Attorneys
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P.O. Box 196650
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Respectfully submitted this 4th day of February 2022.

s/ Ryan J. Tucker

Ryan J. Tucker
Attorney for Plaintiff